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Printed September 22, 2006

**** Bill No. ****

Introduced By *****

By Request of the Department of Labor and Industry

A Bill for an Act entitled: "An Act amending the powers and duties of cities, counties, and towns that are certified by the department of labor and industry to enforce building codes and regulations; and amending section 50-60-106, MCA; and providing an immediate effective date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-60-106, MCA, is amended to read:

"50-60-106. Powers and duties of counties, cities, and towns. (1) As allowed by 50-60, Part 3, MCA ~~The~~ the examination, approval, or disapproval of plans and specifications, the issuance and revocation of building permits, ~~licenses,~~ certificates, and similar documents, the inspection of buildings, and the administration and enforcement of building regulations within the limits of a city or town are the responsibility of the city or town of the state. The examination, approval, or disapproval of plans and specifications, the issuance and revocation of building permits, licenses, certificates, and similar documents, the inspection of

buildings, and the administration and enforcement of building regulations within the portion of a county that is covered by a county building code enforcement program are the responsibility of the county.

(2) Each county, city, or town certified under 50-60-302 shall, within its jurisdictional area:

(a) examine, approve, or disapprove plans and specifications for the construction of any building, the construction of which is pursuant or purports to be pursuant to the applicable provisions of the state building code or county, city, or town building code, and direct the inspection of the buildings during and in the course of construction;

(b) require that construction of buildings be in accordance with the applicable provisions of the state building code or county, city, or town building code, subject to the powers of variance or modification granted to the ~~department~~ code enforcement authority having jurisdiction;

(c) make available to building contractors at a price that is commensurate with reproduction costs a checklist devised by the department pursuant to 50-60-118 for single-family dwellings and provide to contractors who attach a completed checklist to the plans submitted for examination the relevant building permit or notice of plan disapproval within 10 working days of the contractor's submission;

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(d) during and in the course of construction, order in writing the remedying of any condition found to exist in, on, or about any building that is being constructed in violation of the state building code or county, city, or town building code. Orders may be served upon the owner or the owner's authorized agent personally or by sending by certified mail a copy of the order to the owner or the owner's authorized agent at the address set forth in the application for permission for the construction of the building. ~~A local building department~~ certified city, county, or town, by action of ~~an authorized officer~~ its building official, may grant in writing time as may be reasonably necessary for achieving compliance with the order.

(e) For the purposes of ~~this subsection~~ subsections(2)(a) and(d), the phrase "during and in the course of construction" refers to the construction of a building until all necessary building permits have been obtained and ~~the municipality or county has issued formal written approvals or has issued a certificate of occupancy for the building~~ all work authorized by those permits has been fully approved by the building official having jurisdiction.

~~(e)~~(f) issue certificates of occupancy as provided in 50-60-107;

~~(f)~~(g) issue permits, ~~licenses~~, and other required documents in connection with the construction of a building;

~~(g)~~(h) ensure that all construction-related fees or charges imposed and collected by the ~~municipality or county~~ city, county, or town are necessary, reasonable, and uniform and are:

(i) except as provided in subsection (2)(g)(iii)x, used only for building code enforcement, which consists of those necessary and reasonable costs directly and specifically identifiable for the enforcement of building codes, plus indirect costs charged on the same basis as other local government proprietary funds not paying administrative charges as direct charges. If indirect costs are waived for any local government proprietary fund, they must also be waived for the program established in this section. Indirect charges are limited to the charges that are allowed under federal cost accounting principles that are applicable to a local government.

(ii) reduced if the amount of the fees or charges accumulates above the amount needed to enforce building codes for 12 months. The excess must be placed in a reserve account and may only be used for building code enforcement. Collection and expenditure of fees and charges must be fully documented.

(iii) allocated and remitted to the department, in an amount not to exceed 0.5% of the building fees or charges collected, for the building codes education program established in 50-60-116.

(3) Each county, city, or town with a building code

enforcement program that has been certified under 50-60-302 may, within the area of its jurisdiction:

(a) make, amend, and repeal rules for the administration and enforcement of the provisions of this section and for the collection of fees and charges related to construction;

(b) prohibit the commencement of construction until a permit has been issued by the ~~local building department~~ code enforcement program having jurisdiction after a showing of compliance with the requirements of the applicable provisions of the state building code or county, city, or town building code; and

~~(c) enter into a private contract with the owner or builder of a building that is not or will not be within the jurisdiction of the county, city, or town under which the county, city, or town will provide reviews, inspections, orders, and certificates of occupancy for a fee and under conditions agreed upon by the parties. County, city, or town powers of enforcement may not be exercised.~~

(4) Each city, county, or town with a building code enforcement program that has been certified under 50-60-302 may perform inspections of buildings that are outside their jurisdictional limits, subject to the following conditions;

(a) the inspections are requested in writing by the owners or builders of the buildings to be inspected;

(b) the inspections are not done in lieu of inspections by another city, county, or town that properly has jurisdiction over the buildings to be inspected;

(c) where another building official properly has jurisdiction over a building in which a requested inspection is to be performed, the building official who intends to conduct the requested inspection shall notify the building official who properly has jurisdiction of the scheduled inspection at least 48 hours in advance;

(d) city, county, or town powers of enforcement possessed as a result of building code enforcement certification by the department may not be exercised in conjunction with requested inspections, and no similar powers of building code enforcement may be contractually created or required by or between the requestor and the inspecting jurisdiction.

(5) In situations where buildings may be annexed into an inspecting city or town's jurisdiction subsequent to a requested inspection, no certified city or town may require owners or builders to request inspections of those buildings prior to annexation as a condition precedent to receiving any other public service or utility."

NEW SECTION. **Section 2. {Standard} Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the

effective date of this act].

NEW SECTION. **Section 3. {Standard} Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 4. {Standard} Codification**
Instruction. [Sections 4,5] are intended to be codified as an integral part of Title , and the provisions of Title , apply to [sections 4,5].

NEW SECTION. **Section 5. {Standard} Effective date.** [This act] is effective on passage and approval.; amending section 50-60-106, MCA.

{Internal references to 50-60-106:

50-60-118 50-60-301 50-60-404 }

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